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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,764	03/31/2004	Bo Huang	42P18121	5246
8791 7590 07/10/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
KANG, INSUN				
ART UNIT		PAPER NUMBER		
2193				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/813,764

**Applicant(s)**

HUANG ET AL.

**Examiner**

INSUN KANG

**Art Unit**

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 2/8/2008.
2. Claims 6-20 are pending in the application.

#### ***Specification***

3. The amendment filed on 2/8/2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the scope of the term, a machine-readable medium is narrowed by deleting transmission media such as signals in paragraph 0048, in an attempt to overcome 101 rejection. It is recommended to rephrase the specification to break the term, a machine-readable medium into different types such as "a storage medium" including ROM etc and "a transmission medium" including carrier waves etc recited in the specification. Using the term, "a storage medium" in the claims can overcome the 101 rejection by excluding the transmission media such as signals.

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 6-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 6-10 are non-statutory because they are directed to an apparatus comprising a "machine-readable medium" that includes a propagated medium such as a carrier wave and a

signal as recited in the instant specification (i.e. "The machine-readable medium includes any mechanism that ...transmits...information...signals," par 0048). Such medium does not have a physical structure, rather it is the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism per se. Moreover, it does not fit within the definition of the categories of patentable subject matter set forth in § 101. Therefore, the claims are non-statutory.

The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.  
[http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf)

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopkins et al. (US Patent 4,961,141) hereafter referred to as "Hopkins" in view of Auslander et al. ("Fast, Effective Dynamic Compilation," ACM, page 149-159, 1996).

Per claim 6:

Hopkins discloses:

- assigning a first register class to at least one symbolic register in at least one instruction (i.e. “for each equivalence class, forming the logical OR function of register usage information for all symbolic registers in the class,” col. 1 lines 55-60; “initializing in function block 27...i is set equal to the first register,” col. 4 lines 21-34)
- assigning a second register class to the at least one symbolic register (i.e. after step 34 in Fig 4, i+1 is set back to FIRST REG which assigns the i+1 to the symbolic register);

Hopkins does not explicitly teach conjunctive forward dataflow analysis. However, Auslander teaches it was known in the pertinent art, at the time applicant's invention was made, to evaluate as false as long as one of its conjunctive clauses evaluates as false (i.e. page 152, second paragraph, lines 1-11). It would have been obvious for one having ordinary skill in the art to modify Hopkins' disclosed system to incorporate the teachings of Auslander. The modification would be obvious because one having ordinary skill in the art would be motivated to reduce the register assignment sets by assigning a register class only if the conjunctive clause is true as suggested by Auslander (i.e. page 152, left col., paragraph 2-3).

Hopkins further discloses:

- moving register class fixups for the assignment of the second register class (i.e. “dead code in the program is removed in block 6,” col. 2 lines 50-60; “fix up code is inserted...move the value from one space to another,” col. 3 lines 33-44);

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- removing unnecessary register class fixups to reduce the register class fixups (i.e. “dead code in the program is removed in block 6,” col. 2 lines 50-60; col. 3 lines 33-49)
- renaming the at least one symbolic register (i.e. “If so, new names are made up in function block 39 so that there is a different name for each context,” col. 4 lines 41-44).
- Wherein each instruction includes assignment of one of the first register class assigned and the second register class assigned (i.e. after step 34 in Fig 4, i+1 is set back to FIRST REG which assigns the i+1 to the symbolic register).

Per claim 7:

Hopkins further discloses:

- said assigning the first register class is an initial assignment (i.e. “SET i = FIRST REG,” Fig 4A).

Per claim 8:

Hopkins further discloses:

- marking a register class assignment map that operates to track register class assignments at a block entry of a compilation unit (i.e. “i is set equal to the first register,” which is a block entry initializing the function block; col. 4 lines 21-25; see also Fig 4 the loop block);

- marking the register class assignment map at a block exit of compilation unit (i.e. see Fig 4, in function block 34, i is indexed by adding one to i before looping back to decision block 28; “in the decision block 25, a test is made to determine if there are any more operations to be processed...otherwise, control passes to the interlude logic,” which sets i to N (exit point) after the final loop, col. 4 lines 15-19)
- determining the register class assignment map at an entry of each instruction in a block(i.e. ; “a test is made in decision block 28 to determine if i is less than or equal to the last register,” col. 4 lines 21-34; the decision blocks 28 and 29 are performed at an entry point i)
- determining the register class assignment map at an exit of each instruction in the block (i.e. ; “a test is made in decision block 28 to determine if i is less than or equal to the last register,” col. 4 lines 21-34; the decision blocks 28 and 29 are performed at an exit point where i is set to N (exit point) after the final loop).

Per claim 9:

Hopkins further discloses:

- one or more of hoisting and sinking the register class fixups (i.e. “fix up code is inserted...move the value from one space to another,” col. 3 lines 33-44);

Per claim 10:

Hopkins further discloses:

- removing dead code (i.e. "dead code in the program is removed in block 6," col. 2 lines 50-60).

Per claims 11-15, they are the system versions of claims 6-10, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 6-10 above.

Per claims 16-20, they are the computer versions of claims 6-10, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 6-10 above.

### ***Response to Arguments***

8. Applicant's arguments filed on 2/8/2008 have been fully considered but they are not persuasive.

The applicant states that Hopkins simply explain fix up code. Hopkins does not disclose moving fixup instructions ...and removing unnecessary register class fixups to reduce the register class fixups (remark, 8).

In response, the instant specification describes that the register class fixups are reduced through code hoisting/sinking and dead code elimination (0037) and claim 10 recites that the removing the register class fixups that are unnecessary comprises removing dead code. In Hopkins, the fix up code is inserted and then the dead code elimination optimization on the code including the fixup code is performed to remove dead code (col. 3 lines 33-49).

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to INSUN KANG whose telephone number is (571)272-3724. The examiner can normally be reached on M-R 7:30-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock, Jr. can be reached on 571-272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Insun Kang/  
Examiner, Art Unit 2193

/Lewis A. Bullock, Jr./  
Supervisory Patent Examiner, Art Unit 2193